

# **FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT**

Revised Audit Report

## **COLLECTIVE BARGAINING PROGRAM**

Chapter 961, Statutes of 1975,  
and Chapter 1213, Statutes of 1991

*July 1, 1999, through June 30, 2002*



**JOHN CHIANG**  
California State Controller

October 2012



**JOHN CHIANG**  
**California State Controller**

October 9, 2012

Joan Barram, President  
Board of Trustees  
Foothill De Anza Community College District  
12345 El Monte Road  
Los Altos Hills, CA 94022-4599

Dear Ms. Barram:

The State Controller's Office audited the costs claimed by the Foothill-De Anza Community College District for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 1999, through June 30, 2002.

This revised final report supersedes our previous report dated July 2, 2004. In our prior report, we did not allow costs that were supported by electronic calendars, e-mail messages, and internal memoranda because there was no contemporaneous documentation validating the hours claimed. We reconsidered the audit adjustments in light of the September 21, 2010 appellate court decision in *Clovis Unified School District et al. v. John Chiang, State Controller*. The court ruled that the SCO's contemporaneous source document rule (CSDR) was invalid prior to the Commission on State Mandates' (CSM) adoption of the rule in the Collective Bargaining Program's parameters and guidelines. The CSM adopted the CSDR for this mandated program effective July 1, 2005. In compliance with the court decision, we revised our audit to allow costs supported by electronic calendars, e-mail messages, and internal memoranda. As a result, allowable costs increased by \$192,084 for the audit period.

The district claimed \$843,067 for the mandated program. Our audit disclosed that \$586,455 is allowable and \$256,612 is unallowable. The costs are unallowable because the district claimed unsupported and ineligible costs. The State paid the district \$677,871. The State will offset \$91,416 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

The district previously filed an Incorrect Reduction Claim (IRC) on September 13, 2005. The district may file an amended IRC with the CSM based on this revised final audit report. The amended IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at the CSM's website at [www.csm.ca.gov/docs/IRCForm.pdf](http://www.csm.ca.gov/docs/IRCForm.pdf).

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, at (916) 323-5849.

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

JVB/sk

cc: Linda M. Thor, Ed.D., Chancellor

Foothill-De Anza Community College District  
Kevin McElroy, Vice Chancellor, Business Services

Foothill-De Anza Community College District  
Bernata Slater, Director, Budget Operations

Foothill-De Anza Community College District  
Bret Watson, Grants Monitor

Foothill-De Anza Community College District  
Christine Atalig, Specialist

College Finance and Facilities Planning  
California Community Colleges Chancellor's Office

Ed Hanson, Principal Program Budget Analyst  
Education Systems Unit  
Department of Finance

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## **Revised Audit Report**

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# Revised Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by the Foothill-De Anza Community College District for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 1999, through June 30, 2002.

The district claimed \$843,067 for the mandated program. Our audit disclosed that \$586,455 is allowable and \$256,612 is unallowable. The costs are unallowable because the district claimed unsupported and ineligible costs. The State paid the district \$677,871. The State will offset \$91,416 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

## Background

In 1975, the State enacted the Rodda Act (Chapter 961, Statutes of 1975), requiring the employer and employee to meet and negotiate, thereby creating a collective bargaining atmosphere for public school employers. The legislation created the Public Employment Relations Board to issue formal interpretations and rulings regarding collective bargaining under the Act. In addition, the legislation established organizational rights of employees and representational rights of employee organizations, and recognized exclusive representatives relating to collective bargaining.

On July 17, 1978, the Board of Control (now the Commission on State Mandates [CSM]) determined that the Rodda Act imposed a state mandate upon school districts reimbursable under Government Code section 17561.

Chapter 1213, Statutes of 1991, added Government Code section 3547.5, requiring school districts to publicly disclose major provisions of a collective bargaining effort before the agreement becomes binding.

On August 20, 1998, the CSM determined that this legislation also imposed a state mandate upon school districts reimbursable under Government Code section 17561. Costs of publicly disclosing major provisions of collective bargaining agreements that districts incurred after July 1, 1996, are allowable.

Claimants are allowed to claim increased costs. For components G1 through G3, increased costs represent the difference between the current-year Rodda Act activities and the base-year Winton Act activities (generally, fiscal year 1974-75), as adjusted by the implicit price deflator. For components G4 through G7, increased costs represent actual costs incurred.

The seven components are as follows:

- G1-Determining bargaining units and exclusive representative
- G2-Election of unit representative
- G3-Costs of negotiations
- G4-Impasse proceedings
- G5-Collective bargaining agreement disclosure
- G6-Contract administration
- G7-Unfair labor practice charges

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on October 22, 1980, and amended them ten times, most recently on January 29, 2010. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist school districts and local agencies in claiming reimbursable costs.

## **Objective, Scope, and Methodology**

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Collective Bargaining Program for the period of July 1, 1999, through June 30, 2002.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the district's financial statements. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

## **Conclusion**

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, the Foothill-De Anza Community College District claimed \$843,067 for costs of the Collective Bargaining Program. Our audit disclosed that \$586,455 is allowable and \$256,612 is unallowable. The State paid the district \$677,871. The State will offset \$91,416 from other mandated program payments due the district. Alternatively, the district may remit this amount to the State.

**Views of  
Responsible  
Officials**

We issued a draft audit report on March 12, 2004. Michael Brandy, former Vice Chancellor–Business Services, responded by letter dated April 28, 2004 (Attachment), disagreeing with the audit results. We issued our original final audit report on July 2, 2004.

Subsequently, we reconsidered the audit adjustments in light of the September 21, 2010 appellate court decision in *Clovis Unified School District et al. v. John Chiang, State Controller*. Based on the court decision, we allowed all costs supported by electronic calendars, e-mail messages, and internal memoranda. As a result, allowable costs increased by \$192,084 for the audit period. On September 25, 2012, we notified Kevin McElroy, Vice Chancellor, Business Services, and other district staff of the final audit report revisions.

**Restricted Use**

This report is solely for the information and use of the Foothill-De Anza Community College District, the California Community Colleges Chancellor's Office, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original signed by*

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

October 9, 2012

# Revised Schedule 1— Summary of Program Costs July 1, 1999, through June 30, 2002

| Cost Elements  | Actual Costs<br>Claimed | Allowable<br>per Audit | Audit<br>Adjustments | Reference <sup>1</sup> |
|--|-------------------------|------------------------|----------------------|------------------------|
| <u>July 1, 1999, through June 30, 2000</u>                   |                         |                        |                      |                        |
| Components G1 through G3:                                    |                         |                        |                      |                        |
| Salaries and benefits  | \$ 42,058               | \$ 31,564              | \$ (10,494)          | Finding 1              |
| Contract services  | 57,504                  | 30,099                 | (27,405)             | Finding 2              |
| Subtotals  | 99,562                  | 61,663                 | (37,899)             |                        |
| Less adjusted base year direct costs                         | (15,398)                | (15,398)               | —                    |                        |
| Increased direct costs, G1 through G3                        | 84,164                  | 46,265                 | (37,899)             |                        |
| Components G4 through G7:                                    |                         |                        |                      |                        |
| Salaries and benefits  | 45,074                  | 45,074                 | —                    |                        |
| Contract services  | 58,218                  | 56,363                 | (1,855)              | Finding 2              |
| Increased direct costs, G4 through G7                        | 103,292                 | 101,437                | (1,855)              |                        |
| Total increased direct costs, G1 through G7                  | 187,456                 | 147,702                | (39,754)             |                        |
| Indirect costs   | 29,886                  | 22,495                 | (7,391)              | Findings 1, 3          |
| Total costs  | \$ 217,342              | 170,197                | \$ (47,145)          |                        |
| Less amount paid by the State                                |                         | (217,342)              |                      |                        |
| Allowable costs claimed in excess of (less than) amount paid |                         | \$ (47,145)            |                      |                        |
| <u>July 1, 2000, through June 30, 2001</u>                   |                         |                        |                      |                        |
| Components G1 through G3:                                    |                         |                        |                      |                        |
| Salaries and benefits  | \$ 43,411               | \$ 30,150              | \$ (13,261)          | Finding 1              |
| Contract services  | 20,210                  | 20,210                 | —                    | Finding 2              |
| Subtotals  | 63,621                  | 50,360                 | (13,261)             |                        |
| Less adjusted base year direct costs                         | (16,533)                | (16,533)               | —                    |                        |
| Increased direct costs, G1 through G3                        | 47,088                  | 33,827                 | (13,261)             |                        |
| Components G4 through G7:                                    |                         |                        |                      |                        |
| Salaries and benefits  | 74,213                  | 73,580                 | (633)                | Finding 1              |
| Contract services  | 77,287                  | 53,460                 | (23,827)             | Finding 2              |
| Increased direct costs, G4 through G7                        | 151,500                 | 127,040                | (24,460)             |                        |
| Total increased direct costs, G1 through G7                  | 198,588                 | 160,867                | (37,721)             |                        |
| Indirect costs   | 36,605                  | 25,288                 | (11,317)             | Findings 1, 3          |
| Total costs  | \$ 235,193              | 186,155                | \$ (49,038)          |                        |
| Less amount paid by the State                                |                         | (225,336)              |                      |                        |
| Allowable costs claimed in excess of (less than) amount paid |                         | \$ (39,181)            |                      |                        |



**Revised Schedule 1 (continued)**

| Cost Elements  | Actual Costs<br>Claimed | Allowable<br>per Audit | Audit<br>Adjustments | Reference <sup>1</sup> |
|--|-------------------------|------------------------|----------------------|------------------------|
| <u>July 1, 2001, through June 30, 2002</u>                   |                         |                        |                      |                        |
| Components G1 through G3:                                    |                         |                        |                      |                        |
| Salaries and benefits  | \$ 64,758               | \$ 47,584              | \$ (17,174)          | Finding 1              |
| Contract services  | 21,701                  | 21,465                 | (236)                | Finding 2              |
| Subtotals  | 86,459                  | 69,049                 | (17,410)             |                        |
| Less adjusted base year direct costs                         | (16,768)                | (16,768)               | —                    |                        |
| Increased direct costs, G1 through G3                        | 69,691                  | 52,281                 | (17,410)             |                        |
| Components G4 through G7:                                    |                         |                        |                      |                        |
| Salaries and benefits  | 53,752                  | 53,269                 | (483)                | Finding 1              |
| Contract services  | 229,973                 | 90,616                 | (139,357)            | Finding 2              |
| Increased direct costs, G4 through G7                        | 283,725                 | 143,885                | (139,840)            |                        |
| Total increased direct costs, G1 through G7                  | 353,416                 | 196,166                | (157,250)            |                        |
| Indirect costs   | 37,116                  | 33,937                 | (3,179)              | Findings 1, 3          |
| Total costs  | \$ 390,532              | 230,103                | \$ (160,429)         |                        |
| Less amount paid by the State                                |                         | (235,193)              |                      |                        |
| Allowable costs claimed in excess of (less than) amount paid |                         | \$ (5,090)             |                      |                        |
| <u>Summary: July 1, 1999, through June 30, 2002</u>          |                         |                        |                      |                        |
| Components G1 through G3:                                    |                         |                        |                      |                        |
| Salaries and benefits  | \$ 150,227              | \$ 109,298             | \$ (40,929)          |                        |
| Contract services  | 99,415                  | 71,774                 | (27,641)             |                        |
| Subtotals  | 249,642                 | 181,072                | (68,570)             |                        |
| Less adjusted base year direct costs                         | (48,699)                | (48,699)               | —                    |                        |
| Increased direct costs, G1 through G3                        | 200,943                 | 132,373                | (68,570)             |                        |
| Components G4 through G7:                                    |                         |                        |                      |                        |
| Salaries and benefits  | 173,039                 | 171,923                | (1,116)              |                        |
| Contract services  | 365,478                 | 200,439                | (165,039)            |                        |
| Increased direct costs, G4 through G7                        | 538,517                 | 372,362                | (166,155)            |                        |
| Total increased direct costs, G1 through G7                  | 739,460                 | 504,735                | (234,725)            |                        |
| Indirect costs   | 103,607                 | 81,720                 | (21,887)             |                        |
| Total costs  | \$ 843,067              | 586,455                | \$ (256,612)         |                        |
| Less amount paid by the State                                |                         | (677,871)              |                      |                        |
| Allowable costs claimed in excess of (less than) amount paid |                         | \$ (91,416)            |                      |                        |

<sup>1</sup> See the Findings and Recommendations section.

# Revised Findings and Recommendations

## **FINDING 1— Unallowable salaries, benefits, and related indirect costs**

The district claimed unallowable salaries and benefits totaling \$42,045. The related indirect costs total \$15,340, based on the indirect cost rate claimed of 36.48%. Salaries and benefits are unallowable as follows:

### **Component G3—Negotiations**

- The district did not provide sufficient documentation to support a portion of part-time teachers' hours claimed. Unallowable costs totaled \$1,478 (18.5 hours) in FY 1999-2000, \$424 (4.75 hours) in FY 2000-01, and \$301 (3 hours) in FY 2001-02.
- The district claimed duplicate costs for part-time teachers totaling \$626 (6.25 hours) in FY 2001-02.
- The district did not support the productive hourly rate claimed for part-time teachers. The district claimed part-time teacher costs using productive hourly rates of \$79.87, \$89.41, and \$100.08 for FY 1999-2000, FY 2000-01, and FY 2001-02, respectively. The district provided documentation that supported rates of \$70.51, \$77.87, and \$87.66 for the three fiscal years. As a result, unallowable costs totaled \$1,516 in FY 1999-2000, \$1,917 in FY 2000-01, and \$2,326 in FY 2001-02.
- The district did not provide supporting documentation for a portion of management team members and confidential assistant hours claimed. Unallowable costs totaled \$7,500 (126.5 hours) in FY 1999-2000, \$10,920 (144.75 hours) in FY 2000-01, and \$13,921 (169 hours) in FY 2001-02.

### **Component G6—Administration/Grievances**

- The district did not provide sufficient documentation to support a portion of part-time teachers' hours claimed. Unallowable costs totaled \$335 (3.75 hours) in FY 2000-01.
- The district claimed duplicate costs for part-time teachers totaling \$250 (2.5 hours) in FY 2001-02.
- The district's records did not support productive hourly rates claimed for part-time teachers. Unallowable costs totaled \$298 in FY 2000-01, and \$233 in FY 2001-02.

The following table summarizes the audit adjustment for salaries and benefits:

| Elements/Components              | Fiscal Year        |                    |                    | Total              |
|----------------------------------|--------------------|--------------------|--------------------|--------------------|
|                                  | 1999-2000          | 2000-01            | 2001-02            |                    |
| Salaries and benefits:           |                    |                    |                    |                    |
| G1 through G3                    | \$ (10,494)        | \$ (13,261)        | \$ (17,174)        | \$ (40,929)        |
| G4 through G7                    | —                  | (633)              | (483)              | (1,116)            |
| Audit adjustment, direct costs   | <u>\$ (10,494)</u> | <u>\$ (13,894)</u> | <u>\$ (17,657)</u> | <u>\$ (42,045)</u> |
| Audit adjustment, indirect costs | <u>\$ (3,828)</u>  | <u>\$ (5,070)</u>  | <u>\$ (6,442)</u>  | <u>\$ (15,340)</u> |

The program's parameters and guidelines state that public school employers will be reimbursed for the increased costs incurred as a result of compliance with the mandate. Claims must show the costs of salaries and benefits for employer representatives participating in negotiations, negotiation planning sessions, and adjudication of contract disputes. Claims must also indicate the cost of substitutes for release time of exclusive bargaining unit representatives during negotiations and adjudication of contract disputes. Claims must show the classification of employees involved, amount of time spent, and their hourly rates.

#### Recommendation

We recommend that the district claim only those costs that are adequately supported by source documentation.

#### District's Response

In our original audit report published July 2, 2004, the district contested audit adjustments identified for costs supported by electronic calendars, e-mail messages, and internal memoranda. The district did not respond to the remaining audit adjustments.

#### SCO's Comment

In our revised final audit report, we revised our audit finding in light of the September 21, 2010 appellate court decision in *Clovis Unified School District et al. v. John Chiang, State Controller*. Based on the court decision, we allowed all costs supported by electronic calendars, e-mail messages, and internal memoranda.

## **FINDING 2— Unallowable contract services costs claimed**

The district claimed unallowable contract services costs of \$192,680. Contract service costs claimed are unallowable as follows:

### **Component G3—Negotiations**

- The district claimed \$27,405 in FY 1999-2000 for costs related to a personnel matter that was not related to collective bargaining.
- The district claimed \$236 (1.75 hours) in FY 2001-02 for services performed but not charged by the contractor that rendered the services.

### **Component G6—Administration/Grievances**

- The district claimed \$1,484 in FY 1999-2000, \$23,827 in FY 2000-01, and \$133,453 in FY 2001-02 for matters not related to collective bargaining. The district's Vice Chancellor for Human Resources and Equal Opportunity confirmed that \$129,707 claimed was not related to collective bargaining; the auditor identified the remaining costs after reviewing all other claimed grievance files.
- The district did not provide supporting documentation for \$337 claimed in FY 1999-2000 and \$135 in FY 2001-02 to show that the costs were related to collective bargaining.

- The district claimed \$34 (0.25 hours) in FY 1999-2000 and \$2,019 (14.95 hours) in FY 2001-02 for unallowable hours due to mathematical errors or hours documented but not charged by the firm rendering services.
- The district claimed 100% of arbitration fees totaling \$6,600 in FY 2001-02; however, only 50% of arbitration costs (\$3,300) is reimbursable. The district also claimed unallowable arbitration cancellation fees of \$450.

The following table summarizes the audit adjustment for contract services:

| Elements/Components | Fiscal Year        |                    |                     | Total               |
|---------------------|--------------------|--------------------|---------------------|---------------------|
|                     | 1999-2000          | 2000-01            | 2001-02             |                     |
| Contract services:  |                    |                    |                     |                     |
| G1 through G3       | \$ (27,405)        | \$ —               | \$ (236)            | \$ (27,641)         |
| G4 through G7       | (1,855)            | (23,827)           | (139,357)           | (165,039)           |
| Audit adjustment    | <u>\$ (29,260)</u> | <u>\$ (23,827)</u> | <u>\$ (139,593)</u> | <u>\$ (192,680)</u> |

The parameters and guidelines state that public school employers will be reimbursed for the increased costs incurred as a result of compliance with the mandate. The parameters and guidelines require the district to separately show the name of professionals or consultants, specify the functions the consultants performed relative to the mandate, specify the length of appointment, and provide itemized costs for such services. The parameters and guidelines also state that only the public school employer's portion of arbitrators' fees for adjudicating grievances, representing 50% of costs, will be reimbursed.

#### Recommendation

We recommend that the district claim only those costs that are reimbursable under the parameters and guidelines and properly supported with source documentation.

#### District's Response

The district did not respond to this audit finding.

### **FINDING 3— Overstated indirect costs**

The district overstated indirect costs by \$6,547 for the audit period. The district understated indirect costs because it did not apply the indirect cost rate to total increased direct costs. However, the district overstated indirect costs because it overstated the allowable indirect cost rates.

The district claimed indirect costs based on an indirect cost rate proposal (ICRP) prepared by an outside consultant using FY 1998-99 district costs. The district did not develop indirect cost rates based on costs incurred in the fiscal years within the audit period. In addition, the district did not obtain federal approval for its ICRP. For the audit period, the district claimed a 36.48% indirect cost rate.

During audit fieldwork, the district submitted revised ICRPs for each fiscal year within the audit period. The district prepared the revised ICRPs using the methodology allowed by the SCO claiming instructions. The indirect cost rates resulting from the revised ICRPs did not support the indirect cost rate claimed. The district's revised ICRPs supported indirect cost rates of 15.23% for FY 1999-2000, 15.72% for FY 2000-01, and 17.3% for FY 2001-02.

The district applied the claimed indirect cost rate to increased direct costs for salaries and benefits only. However, the indirect cost rates calculated using the revised methodology are applicable to both salaries and benefits, and contract services, resulting in understated indirect costs claimed. The following table summarizes the audit adjustment for indirect costs:

|  | Fiscal Year |            |            | Total      |
|--|-------------|------------|------------|------------|
|  | 1999-2000   | 2000-01    | 2001-02    |            |
| Allowable increased direct costs,<br>G1 through G7 | \$ 147,702  | \$ 160,867 | \$ 196,166 |            |
| Allowable indirect cost rate                       | × 15.23%    | × 15.72%   | × 17.30%   |            |
| Subtotals  | 22,495      | 25,288     | 33,937     |            |
| Less indirect costs claimed                        | (29,886)    | (36,605)   | (37,116)   |            |
| Subtotals  | (7,391)     | (11,317)   | (3,179)    |            |
| Unallowable indirect costs from<br>Finding 1       | 3,828       | 5,070      | 6,442      |            |
| Audit adjustment                                   | \$ (3,563)  | \$ (6,247) | \$ 3,263   | \$ (6,547) |

The parameters and guidelines state that for allowable overhead costs, community college districts must use one of the following three alternatives: (1) a federally-approved rate based on Office of Management and Budget (OMB) Circular A-21; (2) the State Controller's form FAM-29C, which is based on total expenditures that the district reports to the California Community Colleges Chancellor's Office in its Annual Financial and Budget Report (CCFS-311).

### Recommendation

We recommend that the district claim indirect costs in accordance with the parameters and guidelines. The district should obtain federal approval for ICRPs prepared in accordance with OMB Circular A-21 and prepare these ICRPs based on costs incurred in the same fiscal year. Alternately, the district may use form FAM 29-C to prepare ICRPs based on the methodology allowed in the SCO's claiming instructions, or claim indirect costs using the flat 7% rate.

### District's Response

The District also contests the indirect cost rate. The rate which was applied to the original claim was 36.48%. This rate was calculated and developed . . . following federal guidelines and was to be used on federal grants. While we did not receive independent approval of that rate in that year, we did begin to use it for federal grant applications. This rate was used and approved on a NSF [National Science Foundation] grant on 4/17/02.

[A representative of the U.S. Department of Health and Human Services (DHHS)] indicated to us that the indirect cost rate used and approved as part of the [NSF] grant (36.48%) became our de facto approval rate as of 4/17/02. Therefore, we do believe this rate would continue to be the legal and appropriate rate for claim year 2001-2002. We request that the audit finding be adjusted to reflect this indirect cost rate for that claim year.

#### SCO's Comment

In our revised final audit report, we revised this finding solely because of the revised allowable increased direct costs identified in Finding 1.

The district contested the audit finding for FY 2001-02 only. The NSF approved an indirect cost rate of 36.48% for a specific grant, but did not approve an agency-wide application of that rate. We confirmed this understanding with a DHHS representative.

**Attachment—  
District's Response to  
Draft Audit Report**

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**Foothill-De Anza  
Community College District**

12345 El Monte Road  
Los Altos Hills, CA 94022-4599

Foothill College  
De Anza College

April 28, 2004

Mr. Jim L. Spano  
Chief, Compliance Audit Bureau  
State Controller's Office  
Division of Audits  
P.O. Box 942850  
Sacramento, CA 94520-5874

Dear Mr. Spano:

We have carefully reviewed the 1999-2002 collective bargaining mandated draft audit we received on March 19, 2004.

The District contests the finding that electronic calendars and internal memoranda documenting time spent on collective bargaining activities are unallowable. Electronic calendars are no less proof of a person's activities than paper calendars. The Mandated Cost Manual states, "A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question." The purpose of an audit is to ascertain the existence or non-existence of reliable evidence to support the claims for reimbursement, and neither the general law nor the Governmental Auditing Standards exclude any form of reasonably reliable evidence from consideration because of its form or format. Nothing in the parameters and guidelines requires a source document to be handwritten or on paper. The electronic software that Foothill-De Anza uses for meetings is used because it can schedule meetings in real time. The time disallowed under Finding 1, Component g6 in the amount of \$163,030 for negotiations and administration should be reinstated.

The District also contests the indirect cost rate. The rate which was applied to the original claim was 36.48%. This rate was calculated and developed by the independent accounting firm of Arthur Andersen in 2000. The rate was calculated following federal guidelines and was to be used on federal grants. While we did not receive independent approval of that rate in that year, we did begin to use it for federal grant applications. This rate was used and approved on an NSF grant on 4/17/02 (NSF #0226289).

In trying to clarify this issue with the federal government this last year, we were directed to Mr. Bob Klein, Division of Cost Allocations, Department of Health & Human Services, 50 United Nations Plaza, Room 347, San Francisco. He has indicated to us that the indirect cost rate used and approved as part of the grant (36.48%) became our de facto



Mr. Jim Spano  
April 28, 2002

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approved rate as of 4/17/02. Therefore, we do believe this rate would continue to be the legal and appropriate rate for claim year 2001-2002.

We request that the audit finding be adjusted to reflect this indirect cost rate for that claim year.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Brandy", is written over the printed name.

Michael Brandy  
Vice Chancellor, Business Services

C: G. Wedner  
M. Kanter

**State Controller's Office  
Division of Audits  
Post Office Box 942850  
Sacramento, California 94250-5874**

**<http://www.sco.ca.gov>**